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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 ADRIAN G. SASSEN VANELSOO,

8 Plaintiff,

9 v.

10 RONALD ROGERS, et al.,

11 Defendants.

CASE NO. C16-5574 BHS

ORDER GRANTING PLAINTIFF'S
REQUEST FOR EXTENSION AND
RENOTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

12 This matter comes before the Court on the motion for summary judgment of
13 Defendants Ronald Rogers, C. Stephen Sutton, Susan German, and Shirley Kennedy.
14 Dkt. 19. Also before the Court is Plaintiff Adrian G. Sassen Vanelsoo's motion to extend
15 the deadline for his response. Dkt. 27. The Court has considered the pleadings filed in
16 support of and in opposition to the motions and the remainder of the file and, for the
17 reasons stated below, hereby (1) grants Plaintiff's request for an extension, and (2)
18 renotes the motion for summary judgment.

19 **I. PROCEDURAL HISTORY**

20 Plaintiff commenced this action on June 29, 2016. Dkt. 1. Plaintiff claims that
21 Defendants violated his right to due process when they completed forfeiture proceedings
22 in 2012 on money seized from Plaintiff. *See* Dkt. 5.

1 On August 2, 2017, Defendants moved for summary judgment. Dkt. 19. On
2 August 17, 2017, Plaintiff moved to extend the deadline for his response to September
3 25, 2017. Dkt. 27.

4 Defendants have responded to Plaintiff's request in non-opposition. Dkt. 29.
5 However, Defendants request that if the extension be granted, the Court also extend the
6 trial date and impending pretrial deadlines. *Id.*

7 **II. FACTUAL BACKGROUND**

8 On July 23, 2012, Defendant Rogers arrived at the scene of an accident and
9 observed Plaintiff attempting to hide two bags. Dkt. 21. Rogers discovered and seized the
10 two bags which contained a significant quantity of cash and pills. *Id.* Rogers arrested
11 Plaintiff because he believed that Plaintiff had been in an accident while driving under
12 the influence of alcohol or drugs. Dkt. 21.

13 After the arrest, Rogers informed Plaintiff of his rights and Plaintiff volunteered
14 information, including his telephone number and then current address: 2614 46th Street,
15 Bellingham, Washington 98229. Dkt. 21; Dkt. 22 at 2. The address was included on the
16 police report filed subsequent to Plaintiff's arrest and was the same address listed on
17 Plaintiff's license. Dkt. 22 at 2.

18 On July 24, 2012, Plaintiff contacted Defendants to request a hearing to contest
19 the seizure of the cash. Dkt. 20-1 at 3. Defendants informed Plaintiff that "they were in
20 the early stages of receiving/reviewing [the] police report" of the events on which the
21 seizure was based. *Id.*

1 On August 6, 2012, Defendant German prepared and sent to Plaintiff a letter via
2 certified mail informing him that he had until September 20, 2012, to request a hearing in
3 writing or the seized assets would be deemed forfeited. Dkt. 22 at 2; Dkt. 22-1. The letter
4 was sent to the address provided by plaintiff at the time of his arrest which matched the
5 address on his license. Dkt. 22 at 2. The letter was received at the address and a signed
6 receipt was returned to Defendants. *Id.*; Dkt. 22-2. Plaintiff never responded to the
7 August 6 letter. Dkt. 22 at 3.

8 On October 26, 2012, German prepared and sent a second letter via first class mail
9 informing Plaintiff of his failure to respond to the August 6 letter. *Id.* at 2; Dkt. 22-3. The
10 letter informed Plaintiff that his failure to request a hearing would result in the forfeiture
11 of the seized property. Dkt. 22-3. The letter also included German's number and
12 informed Plaintiff that he could contact her with any questions. *Id.* Plaintiff never
13 responded to the October 26 letter. Dkt. 22 at 3. On October 30, 2012, German created an
14 invoice voucher to transfer the seized funds to the state patrol's local account authorized
15 under RCW 43.88.195. Dkt. 22-4.

16 Plaintiff claims that on August 3, 2013, he contacted Defendants "seeking the
17 return of money in the amount of \$4,195.00 dollars seized by defendant Rogers." Dkt. 5
18 at 3. Plaintiff also claims that on August 15, 2013, Whatcom County Superior Court
19 ordered that Defendants return the money to Plaintiff in connection with the dismissal of
20 criminal charges that were filed against him. *Id.* at 3-4. Plaintiff states that both he and
21 his mother have contacted each of the Defendants seeking the return of the money. *Id.* at
22 4. While these allegations are taken directly from Plaintiff's complaint and are not

1 supported by separate signed declarations, the complaint was signed with a verification
2 stating under penalty of perjury that the factual assertions therein were true. Dkt. 5 at 6.

3 III. DISCUSSION

4 The statute of limitations period for § 1983 actions is “a State’s personal injury
5 statute of limitations.” *Owens v. Okure*, 488 U.S. 235, 240–41 (1989). Pursuant to RCW
6 4.16.080(2), the period of limitations in this case is three years. *RK Ventures, Inc. v. City*
7 *of Seattle*, 307 F.3d 1045, 1058 (9th Cir. 2002). While state law determines the length of
8 the limitations period, federal law determines when a claim accrues. *Western Ctr. for*
9 *Journalism v. Cederquist*, 235 F.3d 1153, 1156 (9th Cir. 2000). “[I]t is the standard rule
10 that accrual occurs when the plaintiff has a complete and present cause of action.”
11 *Wallace v. Kato*, 549 U.S. 384, 388 (2007) (internal quotation marks omitted). “Under
12 the traditional rule of accrual the tort cause of action accrues, and the statute of
13 limitations commences to run, when the wrongful act or omission results in damages.” *Id.*
14 at 391 (internal quotation marks and edits omitted).

15 In early August, 2012, Plaintiff was informed that his assets would be forfeited if
16 he did not request a hearing in writing to contest the forfeiture. When Plaintiff failed to
17 request a hearing in writing, he was then informed of his default and the resultant
18 forfeiture of his assets in yet another letter. The forfeiture occurred without a hearing by
19 October 30, 2012. There does not appear to be any genuine dispute over the facts that
20 Plaintiff’s injury occurred on or before October 30, 2012, and that Plaintiff had
21 knowledge of his injury at that time. Therefore, it appears that Plaintiff failed to bring his
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1 action within the three-year period of limitations because Plaintiff filed the instant lawsuit
2 on June 29, 2016. *See* Dkt. 1.

3 While Plaintiff has requested an extension to file a response to Defendants' motion
4 for summary judgment, it seems unlikely—from the exhibits attached to Defendants'
5 motion as well as from Plaintiff's own pleadings—that a response would affect the
6 undisputed facts supporting a conclusion that the action is barred by the statute of
7 limitations. Nonetheless, Plaintiff's request offers good cause for a short extension due to
8 the law librarian's absence, and his inability to access the law library where he is
9 incarcerated. Accordingly, the Court will grant Plaintiff's request for an extension of his
10 deadline to respond to summary judgment. While the Court's discussion today addresses
11 only Defendants' arguments regarding the statute of limitations, Plaintiff's response
12 should address all three of Defendants' arguments, including: (1) that the action is barred
13 by the statute of limitations, (2) that Plaintiff allegedly failed to exhaust administrative
14 remedies, and (3) that Defendants are entitled to qualified immunity.

15 The Court also notes that Defendants have requested to extend the trial date and
16 pretrial deadlines should the Court grant Plaintiff's motion for an extension. This request
17 is denied. Defendants have failed to articulate how an extension would prejudice their
18 ability to meet the current deadlines or prepare a defense. The Court will still be able to
19 rule on Defendants' motion prior to trial.

20 IV. ORDER

21 Therefore, it is hereby **ORDERED** that Plaintiff's motion for an extension (Dkt.
22 27) is **GRANTED**. Plaintiff's response shall be filed no later than September 25, 2017.

1 Defendants may file a reply no later than September 29, 2017. The motion for summary
2 judgment (Dkt. 19) is **RENOTED** for consideration on September 29, 2017.

3 Dated this 19th day of September, 2017.

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6 BENJAMIN H. SETTLE
United States District Judge